

antedating the teachings in an article by Kratschmer, et al. in Chemical Physics Letter, 1990, 167-170 ("Kratschmer, et al."), which was cited in support of a 35 U.S.C. §103 rejection as a primary reference against claims of the application. When the Supplemental Amendment was filed, it was believed that the publication date of the article was July 6, 1990.

However, applicants recently learned from the publisher that it does not know when the actual mailing and publication of the Kratschmer, et al. article occurred. A copy of that letter from Dr. Andrew Dempster on behalf of the publisher is attached hereto as Exhibit I.

As indicated in the letter, the first public release of the "Kratschmer, et al." article occurred with the dispatch of the journal issue in which the article appeared. It was published in volume 170, and the publisher indicated that July 6, 1990 is the cover date of this issue. Dr. Dempster further indicates that he does not have any records as to the actual dispatch date of this particular issue, but that in the normal course of business, it would have been dispatched to its subscribers a few days before the cover date of the issue, that is, sometime in the period July 1-6, 1990. Exhibit I indicates that Andrew Dempster will contact the subscription department to ascertain whether it has any records regarding the date of dispatch of this issue to its subscribers.

Attached hereto as Exhibit II is the further reply from the publisher indicating that the subscription department

of the publisher does not have a record of the actual dispatch date of the issue in which the article by Kratschmer, et al. appeared.

Applicants are enclosing herewith a Supplemental Declaration dated June 23, 2000 from Donald R. Huffman in which he attests that the invention described and claimed in the above-identified application was completed in the U.S. prior to July 1, 1990, that all acts in the previous Huffman Declaration relating to the completion of the invention in the U.S. were performed prior to July 1, 1990 and that the laboratory records annexed as Exhibits B-I were all dated prior to July 1, 1990. Thus, Dr. Huffman testifies that the invention described and claimed in the above-identified application was completed in the U.S. prior to July 1, 1990. Thus, even if Kratschmer, et al. were dispatched as early as July 1, 1990, it still could not be used as a reference against the above-identified application.

Thus, the conclusion in the previous Supplemental Amendment is still applicable. Inasmuch as Kratschmer, et al. has been antedated and inasmuch as the secondary references, either alone or in combination, do not teach, disclose or suggest the present invention, the removal of Kratschmer, et al. as a reference obviates the rejection of the claims under 35 U.S.C. §103(a) in which Kratschmer, et al. was cited.

Applicants respectfully submit that the present case is in condition for allowance, which action is earnestly solicited.



Respectfully submitted,

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